

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 47

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENJI ONO

Appeal No. 2004-0260
Application No. 09/091,788

ON BRIEF

Before COHEN, MCQUADE and BAHR, Administrative Patent Judges.

BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 2 and 5-14, which are all of the claims pending in this application.

We REVERSE.

MAILED

DEC 23 2003

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BACKGROUND

The appellant's invention relates to a self-propelled vehicle which can be driven with an operator riding on the vehicle or with an operator not riding on the vehicle.

Further understanding of appellant's invention can be obtained from a reading of representative claim 14, which is reproduced in the appendix to the appellant's brief.

The examiner relied upon the following prior art references of record in rejecting the appealed claims:

Brandenfels	4,750,578	Jun. 14, 1988
Brown	5,010,973	Apr. 30, 1991

The following rejections are before us for review.

Claims 14, 2, 5, 6, 8 and 10-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Brandenfels.

Claims 7, 9 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brandenfels in view of Brown.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (Paper No. 45) for the examiner's complete reasoning in support of the rejections and to the brief (Paper No. 43) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the

respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

We cannot sustain the examiner's rejection of claims 14, 2, 5, 6, 8 and 10-12 as being anticipated by Brandenfels. Simply stated, Brandenfels lacks disclosure of a vehicle comprising a driving portion which can be selectively switched between a forward driving mode and a backward driving mode and which drives the vehicle forward when the driving portion is in the forward driving mode and drives the vehicle backward when the driving portion is in the backward driving mode, as called for in independent claim 14. Brandenfels' driving portion, as discussed in column 5, lines 4-38, comprises a motor 136 which drives a pulley 140 which in turn drives a belt 144 entrained about a pulley 142 on the wheel 82 of the vehicle. The belt 144 is arranged to normally slip in a nondriving relation such that the wheel 82 is normally freewheeling and power drive of the wheel is accomplished by depressing an operator lever 156 which, via cable 154, actuates a belt tightener 148. Depression of the lever 156 also simultaneously closes the circuit to the motor. Consequently, "when the lever 156 is depressed by the operator, the belt is tightened and the wheel is powered, and when the lever 156 is released, power to the wheel is shut off and the belt tightener is released, thus allowing slippage of the belt and freewheeling of wheel 82" (column 5, lines 33-38). This drive arrangement does not appear to provide any means for switching between a forward driving mode, wherein the driving portion drives the

vehicle forward, and a backward driving mode, wherein the driving portion drives the vehicle backward.

The examiner's reliance on the disclosure in Brandenfels in column 6, lines 44-48, for a teaching of this bi-directional drive capability is misplaced. Specifically, Brandenfels discloses that

[t]he cart can also be used as a dolly, as shown in FIG. 4, for carrying luggage L, by unlatching the handle from its upright position and pivoting it forward so that the user can guide the cart. The user can push or pull the cart or can use the hand lever 156 to power it.

The disclosure that the user can push or pull the cart, in either a forward or backward direction, does not constitute a teaching of a driving portion which drives the vehicle forward in a forward driving mode and backward in a backward driving mode. Rather, this is a teaching of forward and backward movement in a non-drive mode. The further disclosure that the user can use the hand lever 156 to power the vehicle or dolly is silent about selective driving in forward and backward driving modes and, in light of the disclosed drive arrangement discussed above, would seem to refer to drive in a single direction only.

For the foregoing reasons, we conclude that the subject matter of claim 14 is not anticipated¹ by Brandenfels. It follows that we shall not sustain the anticipation rejection of claim 14 or claims 2, 5, 6, 8 and 10-12 depending therefrom.

The additional teachings of Brown provide no cure for the deficiency of Brandenfels noted above. We therefore also shall not sustain the rejection of claims 7, 9 and 13 as being unpatentable over Brandenfels in view of Brown.


¹ Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). In other words, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

CONCLUSION

To summarize, the decision of the examiner to reject claims 2 and 5-14 is reversed.

REVERSED


IRWIN CHARLES COHEN
Administrative Patent Judge


JOHN P. MCQUADE
Administrative Patent Judge


JENNIFER D. BAHR
Administrative Patent Judge

)
)
)
)
)
) BOARD OF PATENT
) APPEALS
) AND
) INTERFERENCES
)
)
)
)
)

JDB/ki

Appeal No. 2004-0260
Application No. 09/091,788

Page 7

Burr & Brown
PO Box 7068
Syracuse, NY 13261-7068